# Supreme Court of the United States

No. 47

OCTOBER TERM, 1951

UNITED STATES OF AMERICA, PETITIONER,

*versus*

SAMUEL M. SHANNON, PATTI A. SHANNON and W. L. SHANNON

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

## BRIEF FOR THE RESPONDENTS

C. T. GRAYDON,
JOHN GRIMBALL,
Columbia, S. C.,
Attorneys for Respondents.

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### OPINIONS BELOW

The findings of fact and conclusions of law of the District Court are in the Transcript at pages 26-27. The opinion of the Court of Appeals for the Fourth Circuit is in 186 F. (2d) 430.

## JURISDICTION

The judgment of the Court of Appeals was entered January 3, 1951. (R. 54.) By order of the Chief Justice dated March 21, 1951, the time for filing a petition for Writ of Certiorari was extended to May 7, 1951. (R. 56.) The petition for Writ of Certiorari was filed May 3, 1951, and granted October 8, 1951. Jurisdiction of this Court rests on 28 U. S. C. 1254.

## QUESTIONS PRESENTED

1. Does the Anti-Assignment Act, 31 U. S. C. 203, bar a claimant from recovering damages from the United States when the rights of the claimant, who is an assignee of a claim, have been materially impaired by the willful, unconscionable acts of an agent of the United States, who, with knowledge of the assignment, sought to defeat it by wrongful means?

2. Does the Anti-Assignment Act, 31 U. S. C. 203, bar a claimant, who is an assignee of a claim against the United States, from recovering damages from the United States when the claim was acquired by the claimant through a mistake of law and as an incidental part of a bona fide contract to purchase realty, leased at that time by the United States, and was not acquired for the primary purpose of prosecuting the claim itself?

3. Does the Anti-Assignment Act, 31 U. S. C. 203, bar a claimant who is an assignee of a claim against the United States from recovering damages from the United States, when the claim was acquired as an incident to a bona fide transfer of a piece of realty, and when in the suit to enforce the claim all parties were before the Court and the Government was fully protected?

## STATUTE INVOLVED

Sec. 3477, Revised Statutes, as amended, 31 U. S. C. Sec. 203,

> "All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof."

## STATEMENT

On January 1, 1943, Mrs. Kathleen P. Boshamer and others (hereafter referred to as the Boshamers), leased to the United States a tract of land containing 232 1/4 acres, excepting therefrom two tenant houses and the immediate one acre surrounding each. There was also a barn on the two acres that was not mentioned in the lease. On April 30, 1946, by Contract of Sale, the Boshamers agreed to sell to Samuel M. Shannon and W. L. Shannon the land covered by the lease and the two acres, two tenant houses and barn. Incidental to the sale of the land, the Boshamers transferred to Samuel M. Shannon and W. L. Shannon any claim, reparation or cause of action against the United States for damage to the property during the term of the Boshamers' lease. Subsequently, Samuel M. Shannon transferred to Patti A. Shannon all of his rights under this contract of sale. On June 3, 1946, the Boshamers conveyed the property, the subject of this action, to Patti A. Shannon and W. L. Shannon. The two tenant houses and the barn were almost totally destroyed by United States soldiers in January and February, 1945. The amount of the damage and

the amount of the judgment was $975.00. (R. 26-27, 32-33.) On June 20, 1946, the Boshamers, the Shannons and the United States entered into a supplemental agreement by the terms of which the Shannons became the lessors of this property to the United States. (R. 13-16.) In this supplemental agreement the United States tried to get the Shannons to surrender their claims for damages to the land but the Shannons refused to do so and demanded, instead, an addition to the contract whereby they were given the right to file and prosecute their claims for damages. Some time after the United States Agents had signed this supplemental agreement with both the Boshamers and the Shannons, on May 1, 1947, these agents went to the Boshamers alone, without consulting, notifying or saying anything to the Shannons and procured the Boshamers' signatures on what purports to be an absolute release from the claims of the Boshamers arising out of the occupation of the land by the United States in return for "One dollar and other valuable considerations." (R. 16-17.) Then when the Shannons brought suit on their claims in the District Court the United States set up as a defense to the suit that the former owners had released the United States from any claims for damages to their property. (R. 25.) The Shannons brought suit against the United States in the District Court for the Eastern District of South Carolina. In the Shannons' Complaint they allege that the Boshamers are joined as unwilling parties plaintiff because the Boshamers have a cause of action against the United States which they have assigned to the Shannons for a valuable consideration, and because the Shannons are equitably entitled to any judgment arising out of this cause of action. (R. 20.) In their answer, the Boshamers admitted that the Shannons were entitled to any judgment that might be recovered against the United States for damage to the land. (R. 22-24.) At the trial of

the case none of the parties known as the Boshamers, of whom there were six, appeared in person or by attorney and none testified.

## SUMMARY OF ARGUMENT

### I

The assignment of the claims against the United States, from the Boshamers to the Shannons was a perfectly valid and legal assignment as between these parties because the Anti-Assignment Act does not affect the rights of these parties as between themselves. Under normal circumstances, if there had been no outside interference in this case, the Boshamers themselves could have prosecuted the claims for damages to the land against the United States and having recovered these damages then the Shannons would have the right to collect the damages from the Boshamers under their assignment. However, agents of the United States, who knew of the assignment rights existing between the Boshamers and the Shannons, and who had obtained a lease of this property in question by promising the Shannons, in writing, that they would be protected in filing and prosecuting these rights, went to the Boshamers without warning, notifying or consulting the Shannons, and obtained a release to these damage claims from the Boshamers. Under these circumstances the claims of the Shannons against the United States have been materially impaired by the willful, wanton acts of the United States agents and should not be barred by invoking the Anti-Assignment Act. That Act was never intended to cover a situation of this kind where applying the Act would condone questionable methods of the United State's agents and would cause the United States to profit by such unconscionable methods at the expense of its citizens.

## II

When the Boshamers and the Shannons entered into the Contract for the sale of land and included in that contract an assignment of the claims that the Boshamers had against the United States, all of the parties thought that such an assignment was valid. The assignment of these claims was not the primary purpose of this contract but was only incidental to the contract, the purpose of which was to agree to convey 232 1/4 acres of land. (R. 32-33.) The Agents of the United States thought the assignment valid and enforceable and the United States acquired the lease of this land from the Shannons by its agents' promise to honor the assignment. If this assignment is such that it comes within the purview of the Anti-Assignment Act, the operation of that Statute should be prevented by this Court because the Shannons, Boshamers and the United States agents were all parties to a mistaken belief that the assignment was valid and the United States has already profited by this mistake and should not be allowed to profit further at the expense of its citizens.

## III

The Anti-Assignment Act, having been passed for the protection of the United States, was never intended to bar a claim such as the Shannons are now presenting to this Court. If the Act bars this claim then it has become a sword to strike down valid claims of innocent citizens and a snare to trap any person who is not fully aware of all of its peculiar provisions. The Shannons' claim was acquired as an incident to a bona fide transfer of land at that time under lease to the United States. In such a transfer it is only proper and customary that the vendor should sell any claims that he might have for damages under any current lease over the land. There was no intent on the part of

either vendor or vendee to traffic in claims against the United States. When the Shannons undertook to enforce their claims they brought all of the interested parties before the judicial forum. There was never the remotest intent or possibility of any injustice or wrong being done to the United States. Under such circumstances the Anti-Assignment Act should not be a bar to a recovery by the Shannons.

## ARGUMENT.

### I

**The operation of the Anti-Assignment Act, 31 U. S. C. 203, should not be invoked in this case.**

The assignment of these claims from the Boshamers to the Shannons was valid as between those parties. If the Boshamers had sued the United States in their own right and had recovered the amount of the damages to the land, then the Shannons could have used legal process to enforce their rights to these funds, under their assignment. *McKenzie v. Irving Trust Co.*, 323 U. S. 365, 369, 89 L. Ed. 309, 12 A. L. R. (2d) 468; *Martin v. National Surety Co.*, 300 U. S. 588, 594-598, 81 L. Ed. 822; *Lay v. Lay*, 248 U. S. 24, 63 L. Ed. 103; *McGowan v. Parish*, 237 U. S. 285, 59 L. Ed. 955. At the time that the assignment was made the land was under lease to the United States. (R. 32, 33.) The agents of the United States knew that the land had been sold to the Shannons and that the Boshamers had assigned their rights to damages for injuries to the land by the United States to the Shannons. (R. 13-16, 34-36.) Certainly, these agents knew, regardless of whether or not the Shannons could recover against the United States on the basis of this assignment, that the Boshamers could sue the United States and recover these damages. By virtue of a promise to permit the Shannons to file and prosecute their claims against the

United States the agents of the United States obtained from the Shannons a lease to the property that the Shannons had bought from the Boshamers. (R. 13-16.) Then, in what appears to have been an effort to thwart the Shannons in recovering upon their claims, the agents of the United States went to the Boshamers, after the lease had been terminated and the property had been returned to the Shannons and without notice to the Shannons, had the Boshamers sign a release, releasing the United States from all actions, liability and claims arising out of the occupation of the property by the United States. (R. 16-17.) The consideration for this release was "one dollar and other valuable considerations" paid to six former lessors. This is not a pretty picture. Here, the United States had obtained the Shannons' signatures on a legal document by promising to permit the Shannons to file and prosecute claims based upon an assignment of claims from the Boshamers to the Shannons. Then these agents went knowingly and willfully behind the Shannons' backs and obtained a release to these claims from the Boshamers. These agents were men of superior intelligence. The Shannons are not, as can be seen from their testimony in the case. (R. 12-13, 34-36.) In fact, Samuel M. Shannon is an uneducated farmer. Patti A. Shannon is his wife. W. L. Shannon is his son, who earns his livelihood by working for a railroad on a freight train. The agents knew that the only hope that the Shannons had to recover on their assignment was through the Boshamers. Therefore, in a conscious effort to foil the Shannons in their rights the agents of the United States obtained this release from the Boshamers. Now, if the Shannons are denied the right to recover on their assigned claims in this case, because of the Anti-Assignment Act, they will be unable ever to recover upon these claims because the agents of the United States have precluded the Boshamers from

bringing suit for the damages covered by the assignment by obtaining the release from them. That would certainly be a most unjust conclusion to this case.

It is hard to conceive of any reason why the Anti-Assignment Act should be applied in this case to bar a recovery by the Shannons. The cases show that the statute must be interpreted in the light of its purpose, to give protection to the Government. *Martin v. National Surety Co.*, 300 U. S. 588, 596-597. What protection does the Government need here that it does not have? What harm can come to the Government by permitting a recovery to the Shannons in this case? The Government has profited in its dealings with the Shannons by receiving a lease to the land in question. Had it not been for the unconscionable acts of the agents of the Government the Boshamers could have recovered upon the claims for damages against the United States. In turn, the Shannons could have recovered the proceeds from the Boshamers. What result, injurious to the United States can come about by permitting the Shannons to recover through the Boshamers in one suit when all of the parties are before the Court? We submit that there are none. In this case, should this Court decree that the Anti-Assignment Act bars the Shannons from a recovery there will be no way for anyone to recover on these claims against the United States and the United States would have profited by the wrongful acts of its agents. In the event that this Court decrees that the decision of the Court of Appeals should be affirmed and that the Anti-Assignment Act is not a bar to a recovery by the Shannons, then they will recover no more than they are legally and equitably entitled to.

In *United States v. Aetna Casualty and Surety Company*, 338 U. S. 366, 12 A. L. R. (2d) 444, this Honorable Court decided that where an agent of the United States, through his negligent acts, places a corporation in a posi-

tion where it must pay a claim, under a contract to indemnify, to a person injured by the agents negligent acts and the person injured could have recovered against the United States under the Federal Tort Claims Act (28 U. S. C. 1346 (b), 2674), then the Corporation can sue the United States in its own name despite the Anti-Assignment Act (31 U. S. C. 203). The case now before this Honorable Court recommends itself to the Court with equal strength. Here the Shannons had a claim against the United States, from which they could have realized damages by forcing the Boshamers to bring suit against the United States, under the Federal Tort Claims Act. Agents of the United States, with knowledge of the Shannons claims, after agreeing that the Shannons would be allowed to file and prosecute these claims, have gone to the Boshamers and through their willful acts have acquired a release that forever prevents the Shannons from recovering upon their claims against the United States, even in a suit by the Boshamers alone. Certainly, these agents of the United States have created a situation through their willful acts in which the Shannons or anyone else in a like position should be allowed to recover against the United States under the Federal Tort Claims Act, without having their cause of action barred by the Anti-Assignment Act.

In the course of this appeal someone will undoubtedly suggest that the promise by the agents of the United States to the Shannons to permit them to prosecute their assigned claims is not enforceable in a Court. (R. 15-16.) Whether or not such claims were enforceable because of that written agreement is beside the point. The inevitable fact remains that because of this promise the United States acquired certain legal rights and the agents of the United States recognized the fact that the Shannons possessed certain claims against the United States that they had ac-

quired by assignment from the Boshamers. These agents knew that these assigned claims could be enforced by the Shannons through the Boshamers. Yet, despite this knowledge, and in the face of their equitable duty to the Shannons these agents of the United States willfully procured a release to these claims from the Boshamers for an inadequate consideration.

We submit, that where a claimant has a claim for damages against the United States that the claimant has acquired by assignment from a third party and agents of the United States know of this claim and promise the claimant that he can prosecute the claim in return for legal rights received from the claimant, and where the claimant can recover upon his assigned claims only through his assignor, and the agents of the United States willfully take a release from this assignor for an inadequate consideration and without notice to the claimant, then that claimant can recover upon his claims in a Court in a suit against the United States by joining the assignor as an unfriendly party-plaintiff in the suit.

## II

**The Anti-Assignment Act, 31 U. S. C. 203, does not bar a claimant from recovering upon an assigned claim against the United States, where the claim was acquired through a mistake of law and as an incidental part of a bona fide contract to purchase realty.**

When the Boshamers and the Shannons entered into the contract for the sale of this property and included in the contract of sale, as an incident of that contract, the assignment of the claims that the Boshamers had against the United States for damage to the land, both the Boshamers and the Shannons were under the mistaken belief that the Shannons could then prosecute these claims against the United States. (R. 32-33, 43.) When the United States en-

tered into the three-cornered agreement with the Boshamers and the Shannons, whereby the Shannons became lessors of the United States and the United States agreed that the Shannons could prosecute their claims against the United States, both the Boshamers and the Shannons thought that the Shannons were protected in their right to these claims against the Government. (R. 13-16.) The only party to that agreement who could have known otherwise was the Government through its agents. The U ..ted States thereby acquired legal rights at the expense of the Shannons through their ignorance. It would be most unfair and inequitable now for this Honorable Court to invoke the Anti-Assignment Act to bar the Shannons from recovering upon these claims which the agents of the United States promised them they could file and prosecute in return for their signatures upon the lease of land to the United States. If the agents of the United States knew that they were giving the Shannons a promise that could not be enforced then there is absolutely no question that this Court should invoke its equitable powers to prevent the Shannons from being deprived of that which is rightfully theirs by the operation of the Anti-Assignment Act. Every indication in this case points to the fact that the Agents of the United States did not believe that the Shannons could enforce their claims against the Government, at the very time that this tripartite agreement was entered into. Subsequently, these agents went to the Boshamers and persuaded them to sign a release to the claims that they had assigned to the Shannons. (R. 16, 17.) This release was obtained without notice of any kind to the Shannons. It was not until after this release had been obtained from the Boshamers that the United States first contended that the Shannons' claims were unenforceable because of the Anti-Assignment Act. (R. 34-36, 40.) In view of the fact that after the Government obtained the release

from the Boshamers, its agents then invoked the operation of the Anti-Assignment Act against the Shannons, it can hardly be contended that these agents did not know of the effect of that statute at the time that they procured this release. The Boshamers were willing to sign the release for little or no consideration because they had transferred these claims to the Shannons. They had no way of knowing that this release might have a material effect upon the Shannons' recovery of damages for the claims that the Boshamers had assigned to them. So here we have a mutual mistake of law in the minds of the Boshamers and the Shannons as to the effect of the assignment of the claims against the United States in the Contract of Sale signed by the Boshamers and Shannons. (R. 32-33.) We have, at least, a mutual mistake of law between the agents of the United States and the Shannons in the signing of the three-party agreement, as to the effect of the agreement by the agents that the Shannons would be allowed to prosecute these claims against the Government. (R. 13-16.) It is highly probable that the agents of the United States knew when they signed this agreement with the Shannons that the United States would invoke the Anti-Assignment Act to prevent a recovery on the part of the Shannons. It is certain that the agents of the United States knew what they were doing when they took the release to these claims from the Boshamers (R. 16, 17), and knew that they would make a conscious effort to combine this release from the Boshamers with the Anti-Assignment Act to defeat the claims of the Shannons. In view of these facts we believe that the Court of Appeals was correct in affirming the judgment of the District Court and this Court should not reverse the decision of the Court of Appeals. In Pomeroy's Equity Jurisprudence, Fifth Ed., Sec. 847, we find the following stated:

"Whatever may be the effect of a mistake pure and simple, there is no doubt that equitable relief, affirmative or defensive, will be granted when the ignorance or misapprehension of a party concerning the legal effect of a transaction in which he engages, or concerning his own legal rights which are to be affected, is induced, procured, aided, or accompanied by inequitable conduct of the other parties. It is not necessary that such inequitable conduct should be intentionally misleading, much less that it should be actual fraud; it is enough that the misconception of the law was the result of, or even aided or accompanied by, incorrect, or misleading statements, or acts of the other party."

Certainly, it is proper for the Court in this case to use its strong equitable arm to aid the Shannons and to prevent the Anti-Assignment Act from taking that which justly belongs to them. In signing the tripartite agreement (R. 13-16), the Government agents knew or should have known that the United Sates would oppose the Shannon claims by pleading the Anti-Assignment Act. Yet, they told no one and said nothing. Instead they continued to deal with the Shannons as if they would live up to their agreement. (R. 34-36.) When the Government agents took the release from the Boshamers (R. 16, 17), they knew that the Boshamers did not understand that this would affect the Shannons in their claims. Else, the Boshamers would not have signed the release for such a miserable consideration. We would like to call to the Court's attention that the United States' Attorneys considered the release from the Boshamers a release to the claims relied upon by the Shannons in this suit under the Federal Tort Claims Act and specifically pleaded this release as a defense. (R. 25.) This assignment of these claims was valid as between the Shannons and the Boshamers. The Boshamers could recover upon their claims unless prevented from doing so by the release that the Government agents procured from them, without notifying the

Shannons. Any sum of money recovered from the United States by the Boshamers would be impressed with a trust in favor of the Shannons. *Martin v. National Surety Company*, 300 U. S. 588, 597. This is a case in which this Honorable Court should use its equity powers to relieve the respondents of their mistakes of law and to protect the Respondents against over-reaching on the part of governmental agents and to excuse the respondent's claims from the operation of this Anti-Assignment Act. The fact that this Court has such power cannot be denied. See *Commercial Cas. Ins. Co. v. Lawhead*, 4 Cir. 62 F. (2d) 928; *Clarksburg Trust Co. v. Commercial Cas. Ins. Co.*, 4 Cir. 40 F. (2d) 626; *Philippine Sugar Estates Development Co. v. Philippine Islands*, 247 U. S. 385; *Griswold v. Hazard*, 141 U. S. 260; *Snell v. Ins. Co.*, 98 U. S. 85; Pomeroy's Equity Jurisprudence, 4th Ed. Vol. 2, p. 1711 *et seq.*

We submit that this relief should be granted the Shannons as a matter of equity because of the mistake involved, the questionable behavior of the Agents of the Government and the hardship that would result to the Shannons otherwise.

In the case of *United States v. Aetna Casualty and Surety Co.*, 338 U. S. 336, this Court held that where an insurance company was caused to pay a claim under one of its policies because of the negligent acts of an agent of the United States and the claimant to whom the payment was made would have had a right to sue the United States under the Federal Tort Claims Act (28 U. S. C., Sec. 1346 (b), 2674) that then the insurance company becomes subrogated to the rights of the claimant-payee as a matter of law and the insurance company can then sue the United States on the claim of the claimant-payee in the name of the insurance company, without joining the claimant-payee as a party to the suit despite the Anti-Assignment Act. We

feel that the reasoning behind that case can be applied to the facts in this case now before the Court. Here, the Shannons and Boshamers entered into a *bona fide* contract for the sale of land. There was no intent on the part of either to traffic in claims against the United States. At the time of their contract the land happened to be leased to the United States by the Boshamers. As lessor they had acquired certain claims against the United States because of damage done to the land while using it. What would be more natural than for the Boshamers to transfer these claims to the Shannons when the Shannons purchased the land. The Shannons were the parties who would deal with the United States hereafter. It was entirely possible that at the end of the lease the Shannons would have some claims to settle with the United States. We believe that the theory of *United States v. Aetna Casualty and Surety Co.* should be extended to cover a case of this kind. We feel that where assignments of claims against the United States, which are incidents of a pre-existing *bona fide* status such as a landlord and tenant relationship, are made for the purpose of effecting a *bona fide* transfer of realty, that such claims should not come within the purview of the Anti-Assignment Act.

Those who are opposed to this Court allowing a recovery in this case on the part of the Shannons state that there are four reasons why the Congress of the United States passed the Anti-Assignment Act, (1) to prevent influential persons from buying claims against the Government and urging them improperly upon the officers of the Government, (2) to prevent multiple payment of claims, (3) to make unnecessary the investigation of alleged assignments (4) to enable the Government to deal only with the claimant. (R. 45; Appellant's Brief 13.) If the claims of the Shannons are allowed in this case it will not violate any

of these principles and it will not lay the United States open to future losses by violation of the principles. The Shannons did not seek to buy claims and then wrongwully impose them upon the Government. These claims came to the Shannons in an absolutely legitimate fashion. In cases of this kind there would never be any danger of a multiple payment of claims and the Government would never have to deal with anyone but the claimant because the claims would always be verified by a contract of sale and a duly recorded deed. So far as investigations are concerned, there would be a minimum of those because of the nature of the documents that would be available to prove the transfer of the claims. We must bear in mind, too, that since the passage of this Act until the present day the investigative powers of the United States Government have grown in direct proportion to the size of the country and one of the jobs that it does best is to investigate any and everything.

## III

**The Anti-Assignment Act, 31 U. S. C. 203, should not bar a recovery by an assignee who acquired his claim as an incident to a bona fide transfer of realty and when all of the interested parties are before the Court and the Government is fully protected.**

The assignment from the Boshamers to the Shannons was based upon a valuable consideration and was enforceable as between the parties to it (R. 32-33.) A cancellation of this assignment would merely restore the original claims to the Boshamers. Williston, Contracts, Sec. 1867 A. A recovery upon these claims by the Boshamers would be impressed with a trust in favor of the Shannons and would inure to their benefit. *Martin v. National Surety Company*, 300 U. S. 588, 597. Where, as in this case, all of the parties are before the Court, including the United States, why

should the Shannons be denied a recovery? What will come from a denial of a recovery but injustice to the Shannons? Those who oppose a recovery on the part of the Shannons in this case case say that this is a circumvention of the Anti-Assignment Act (R. 45, 49). We do not think that this necessarily follows such a decision. The Court is simply doing in a direct manner what could be done in an indirect manner. In *United States v. Aetna Casualty and Surety Company*, 338 U. S. 336, this Court stated that it was not necessary for a subrogee by operation of law to sue the United States jointly with his subrogor, a principle for which the attorneys for the United States contended strongly. This Court said that this procedure was not absolutely necessary but did not forbid that this be done. It is apparent to us that it is a correct practice and that the decision of the Court of Appeals should be affirmed.

Originally this Case had a companion case, No. 6128 in the Court of Appeals. That case was brought for damage done to land owned by the Boshamers and sold to the Shannons, which was under lease to the United States. That case was brought pursuant to the Tucker Act, 28 U. S. C. A. Section 41 (20), for damages done to the land by the United States while the land was leased to the United States and owned by the Boshamers. The land was sold by the Boshamers to the Shannons by the same contract of sale and deed that we have been here discussing and the Boshamers assigned to the Shannons their rights to these damages. (R. 32-33.) The United States, at first, applied for a Writ of Certiorari in both cases, but subsequently in its Petition for Writ of Certiorari (pg. 1), and its brief (pg. 1), the United States' Atorneys abandoned the petition for Certiorari in Case No. 6128, saying that this would simplify the issues. In what respect the issues are thereby simplified it is difficult for us to see. It appears to us that

if the decision of the Court of Appeals in one of these cases is so correct that it need not be appealed, then it follows directly that the decision in this case must also be correct. These two cases arise out of the same facts and are supported by the legal reasoning. If it was proper to ask for Certiorari in one case, then it was proper to ask for Certiorari in the other case. If the decision of the Court of Appeals was correct in one case then it was correct in the other case and that decision should be affirmed.

The United States attorneys question the correctness of the decision of the District Court, in ruling that the judgment would be granted in favor of the Boshamers and then the Shannons would be allowed to recover from them, and then in going ahead and granting judgment for the Shannons (R. 26, 27, Appellant's Brief, pg. 5). Of course, after the District Court explained the basis of its decision, it was not necessary for the Court to spell out that judgment in elementary terms. The rationale supporting the Court's ruling was obvious and the manner in which judgment in favor of the Shannons was rendered was perfectly clear.

In the Brief for the United States, pgs. 12, 13, the attorneys for the United States, relying upon *United States v. Gillis*, 95 U. S. 407, a decision sharply limited in its holding since its rendition, argue that if this Court affirms the decision of the Court of Appeals then there will be a category of claims against the United States that will be denied by the fiscal and accounting officers but honored by the Courts. That places the judicial horse somewhat behind the administrative car. If the Courts direct that claims of this nature shall be honored, then they shall be honored by all departments of our government. The fiscal and accounting officers must follow the directives of our Courts. Justice is not coined in our mints. No administrative or procedural difficulties will arise from an affirmance of the decision of